CONSTRUCTIVE TRUSTS. — In a recent New York case (*Hutchinson* v. *Hutchinson*, 32 N. Y. Sup. 390), the plaintiff conveyed lands to the defendant, his sister, without consideration, and in reliance on her parol promise to hold in trust for him. Plaintiff brought action for reconveyance, and it was held that the case fell within the Statute of Frauds, and that plaintiff was not entitled to reconveyance. There was no actual fraud other than breach of promise, and the court held that a confidential relation did not exist between plaintiff and defendant. The case is in line with the New York decisions, which have held consistently since *Sturtevant* v. *Sturtevant*, 20 N. Y. 39, that a grantor who conveys on grantee's parol promise to hold in trust for him, can get no redress in case of breach of promise; unless there exist a confidential relation between the parties to the action (*Goldsmith* v. *Goldsmith*, 39 N. E. R. 1067). Fraud would take the case out of the Statute, but the New York Courts require something more than a mere breach of parol promise to reconvey to constitute fraud in a legal sense. (*Wood* v. *Rabe*, 96 N. Y. 414 at 226.) The English doctrine, on the other hand, recently reaffirmed in *Davis* v. *Whitehead* (1894), 2 Ch. Div. 133 (overruling *Leman* v. *Whitley*, 4 Russ. 423), allows the grantor to compel reconveyance, not by way of enforcing the parol agreement of trust, but because it would be fraud on the grantor to allow the grantee to keep what he has obtained without giving the promised consideration, or on the ground perhaps that the grantor is entitled — regardless of any element of fraud — to specific restitution for failure of consideration without more. Possibly the escape from the results of the New York doctrine may be found in a more liberal construction of the term "confidential relations," although there is no present authority for extending its meaning beyond very narrow limits. In any event, it is to be regretted that the New York courts have failed to notice, or at least to discuss failure of consideration as a ground for specific restitution. Specific restitution on this ground is not specific performance; it is built up on a very different theory. That the result arrived at in each case is the same — a decree for conveyance of land deeded on grantee's parol promise to reconvey — is merely fortuitous. The New York courts, however, are strongly committed, by a long line of precedents, to the doctrine of the principal case; and outside of New York, except in a few jurisdictions, notably Indiana (*Giffen* v. *Taylor*, 37 N. E. R. 393), the whole weight of American authority is adverse to the English view. One must be sanguine, then, to hope that the doctrine of specific restitution in cases of this sort will soon find wide acceptance in American courts.

REPORT OF AMERICAN BAR ASSOCIATION FOR 1894. — Probably no other event of the year calls together so brilliant an assemblage of legal talent as the annual meeting of the American Bar Association. The published reports of these gatherings always contain suggestive matter for the lawyer concerned to strengthen the *morale* and raise the standard of the profession, as well as for one interested in a discussion of current legal questions; and this latest volume is particularly rich in material of both kinds.

Prominent in the former class are papers by John F. Dillon on "The True Professional Ideal," and by Wm. A. Keener on "The Inductive Method in Legal Education." Professor Keener's contribution stirred up the old discussion of the comparative merits of the lecture, text-book,

and case systems of teaching law. The consensus of opinion seemed to be that the case method was gaining ground, and that books of cases with some independent matter, like those edited by Prof. J. B. Thayer of Harvard were, perhaps, best adapted to the use of reasonably mature and able students.

An interesting letter was read, describing a Legal Dispensary conducted by the Law School of the University of Pennsylvania, designed to afford students some practical experience in dealing with actual cases. It may be noted in passing that since that time a similar experiment has been attempted by Harvard law students with somewhat profitable results.

The paper read by Charles C. Allen, of Missouri, on "Injunction and Organized Labor," an examination of the jurisdiction of courts of equity in cases of civil disturbance like the Chicago railway riots of last year, evoked the most elaborate discussion of the meeting. Perhaps an idea of the attitude of the profession generally upon this subject may be gained by noting that over three-fourths of those who took part in the argument disagreed with Mr. Allen, who thought an injunction a misconceived and unadvisable remedy under such circumstances. Both from a legal and a political point of view, the full text of the discussion contained in the report is well worth reading.

The other published proceedings of the Association, while interesting, need no special mention except the rather startling result of an investigation conducted by Mr. Frank C. Smith, of New York, which showed that one-half of all the points of law decided in the American courts of last resort in 1893 were points of procedure not involving the merits of the case at issue. Discouraging to relate, the code States make a worse showing than those that have retained the common-law practice. The task of reforming legal procedure seems truly Sisyphean.

RECENT CASES.

AGENCY — EMPLOYMENT OF AN ATTORNEY BY COLLECTING AGENCY — COMPENSATION. — Defendant placed a draft in the hands of a collecting agency for collection, and the agency employed plaintiff, an attorney in the city where the debtor lived, to collect and remit. Plaintiff seeks to recover for his services from defendant. *Held*, collecting agency acted as principal in the transaction and not as mere agent, and so plaintiff has no claim against defendant. *Dale* v. *Hepburn*, 32 N. Y. Supp. 269.

This case follows the settled law in New York and the U. S. Supreme Court. *Hoover* v. *Greenbaum*, 61 N. Y. 305; *Hoover* v. *Wise*, 91 U. S. 308. In some jurisdictions the courts hold that where paper is to be collected at a distance, there is an implied authority for collecting agency to employ a sub-agent to make the collection on account of the creditor. The question is one of fact, — was the agreement that the agency should collect the debt, or that it should merely employ some one else to collect it for the creditor? In the absence of any controlling evidence, it is submitted that the New York rule is the better; for, as the Court says, "if banks into whose care negotiable instruments are placed for collecting are regarded as principals, so much the more should a collection agency whose sole business is to collect claims placed in its hands, be so regarded."

BAIL AFTER CONVICTION PENDING APPEAL — POWER OF JUSTICE OF SUPREME COURT. — Paragraph 2, rule 36, of the Supreme Court of the United States (11 Sup. Ct. iv.), provides that where a writ of error is allowed in case of conviction of a crime, the justice or judge of the Circuit Court or District Court shall have power to